

ILPA Summary of and Commentary on the Department for Exiting the European Union Policy Paper 'Citizens' Rights - EU citizens in the UK and UK nationals in the EU'

This Government [policy paper](#) outlines their plans in the case of a no-deal Brexit in relation to citizens' rights. The main points in the paper are as follows:

Provisions pertaining to EU citizens resident in the UK by 29 March 2019 and their family members

- EU nationals will be able to work, study, access benefits and services in the UK on the same basis post-Brexit as before (para 4).
- The EU settlement scheme will continue to run under the same rules as in a 'deal' scenario, although it will only be open to those resident in the UK by 29 March 2019 (para 8 and para 11). Settled status, once gained, will operate the same way as in a 'deal' scenario (para 10).
- EU nationals will be able to continue to use their passport or national ID card as evidence of right to reside in the UK for the purposes of right to work and right to rent checks (para 9).
- The settled status scheme will end on 31 December 2020 without a six-month 'grace period' beyond this, which would exist under a 'deal' (para 11).
- EU citizens would not get a right of appeal for refusals under the scheme, but merely administrative review and judicial review (para 11).
- The UK deportation threshold will apply to crimes committed after 29 March 2019, although the EU deportation threshold will apply to those committed before then (para 11).
- EU citizens with settled status can be joined by their non-extended family members by 29 March 2022, where the relationship existed by 29 March 2019 and still continues. Children born after 29 March 2019 may in any event join their parent in the UK. After 29 March 2022 the Immigration Rules will apply to such individuals (para 12).
- In the case of other dependent relatives and future spouses and partners where the relationship was established post-Brexit, they may join the relevant EU national with settled status until 31 December 2020, after which the Immigration Rules will apply to them (para 12).
- Frontier workers will be protected either by the settled status scheme or by a separate immigration status which, so far as ILPA understands, will be created to allow them to continue frontier working post-Brexit (para 14).
- EU citizens and their family members residing in the UK by 29 March 2019 will be entitled to healthcare, education, benefits and social housing, including supported housing and homelessness assistance on the same basis as now (para 15).

- EU citizens in the UK will be able to vote and stand in the May 2019 local elections, while any EU national elected will be able to serve their full term (para 31).

#### Provisions pertaining to UK nationals in the EU

- The UK has called other EU member states in the absence of a deal to set out details of how they will guarantee UK nationals' rights in a reciprocal manner to what is set out in the present document (para 18).
- UK nationals returning to the UK permanently will access the NHS and register to vote in local and national elections on the same basis as UK nationals currently living here (para 22), and they will be able to access education in the UK upon their return from the EU (para 24).
- Arrangements will be considered relating to bringing EU and non-EU family members back to the UK (para 23), access to benefits and housing (para 24).
- Arrangements will be made regarding continuity of payments for those in receipt of UK state pension or other UK benefits while living in the EU (para 24).
- Discussions are taking place as regards reciprocal healthcare and social security arrangements with other EU member states (para 28). The Government laid the Healthcare (International Arrangements) Bill in Parliament on 26 October 2018 in order to establish the legal basis to implement such arrangements (para 29).

#### Provisions pertaining to EFTA nationals in the UK and UK nationals in EFTA states

- EFTA nationals (Iceland, Liechtenstein, Norway and Switzerland) will be able to stay in the UK post-Brexit, as these states have reciprocally agreed to allow UK nationals to stay.

#### **ILPA comments**

1. ILPA urges the Government to consider implementing appeal rights to EU nationals who are refused settled status. Appeals are much less resource-intensive for the Government, applicants, and courts, than judicial review cases and therefore this is likely to save the Government money in the long run. An appeal right will be crucial to ensuring that the right outcome occurs in as many cases as possible, since more applicants will simply accept an unlawful decision than risk their and their family's finances on a judicial review claim.
2. ILPA encourages the Government to consult with us and our members on the specifics of the new type of leave for frontier workers, and to introduce this type of leave as soon as possible so that frontier workers have less uncertainty than at present.
3. ILPA urges the Government to approach family reunion, access to benefits and housing for UK nationals currently living in the EU who return to the UK in a generous manner befitting a state that values citizenship and its citizens.
4. ILPA urges the Government to commit to keeping fees for applications to leave to remain and enter at affordable levels. As the post-Brexit migration system is formulated

and harmonised for migrants, it is important to ensure that fees are not so onerous as to render the United Kingdom an undesirable destination for migrants.

5. ILPA requests greater clarification on the future of the Dublin III Regulation in relation to the UK's post-Brexit policy on asylum seekers.
6. ILPA urges the Government to publish further details that demonstrate that in the event of no-deal, after the settled status scheme finishes, EEA nationals will not be pushed towards a situation that renders them unable to prove their basis of stay akin to the 'Windrush' generation.